



U.S. Citizenship
and Immigration
Services

FILE:

Office: EL PASO, TX

Date:

JUL 13 2004

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship pursuant to Section 201(g) of the Nationality Act of 1940, 8 U.S.C. § 601(g).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The application was denied by the Interim District Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on June 24, 1943, in Zaragoza, Mexico. The applicant's mother, [REDACTED] was born on December 13, 1911, in Yancey, Texas, and was a U.S. citizen. The applicant's father, [REDACTED] was born in Mexico and is not a U.S. citizen. The applicant's parents married on December 25, 1932, in Mexico. The applicant seeks a certificate of citizenship under section 201(g) of the Nationality Act of 1940 (the NA); 8 U.S.C. § 601(g), based on the claim that she acquired U.S. citizenship at birth through her mother.

The interim district director determined that based on the evidence contained in the record, the applicant failed to establish that her United States citizen mother [REDACTED] resided in the United States or its outlying possessions for a period of 10 years prior to the applicant's birth, at least 5 of which were after Ms. [REDACTED] reached the age of 16. The application was denied accordingly.

On appeal the applicant asserts that new evidence establishes her mother resided in the United States for the requisite time period set forth under section 201(g) of the NA. In support of her assertion, the applicant submits a notarized affidavit written by [REDACTED] discussing Ms. [REDACTED] residence in the United States.

"The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth." *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026, 1029 (9th Cir., 2000) (citations omitted).

In order for a child born outside of the United States to derive citizenship from one U.S. citizen parent pursuant to section 201(g) of the NA, it must be established that, when the child was born, the U.S. citizen parent resided in the U.S. or its outlying possession for 10 years, at least 5 of which were after the age of 16. See § 201(g) of the NA. In the present case, the applicant must establish that her mother resided in the U.S. for ten years between December 13, 1911, and June 24, 1943, and that five of those years occurred after December 13, 1927.

The record contains the following evidence pertaining to Ms. [REDACTED] U.S. residence prior to June 24, 1943¹:

A birth certificate reflecting that Ms. [REDACTED] was born in Yancey, Texas on December 13, 1911;

A baptismal certificate reflecting that Ms. [REDACTED] was baptized in Texas on July 20, 1912;

An affidavit signed by [REDACTED] on May 20, 2003, stating that Ms. [REDACTED] was born in Texas in December of 1911, that prior to 1931, Ms. [REDACTED] visited Mexico several times and then returned to the U.S., and that Ms. [REDACTED] moved permanently to Mexico in December 1931.

¹ The AAO notes that the remaining documents contained in the record either reflect Ms. [REDACTED] residence in Mexico (marriage certificate and applicant's birth certificate) or her residence in the U.S. after the applicant's birth in 1943 (Social Security information, lawful permanent resident card, utility account information and affidavit regarding Ms. [REDACTED] residence in the U.S. between 1962 and 1989).

The AAO finds that the birth certificate and baptismal certificate evidence submitted by the applicant establish that Ms. [REDACTED] resided in the U.S. for two years in 1911 and 1912. However, the AAO finds that the affidavit submitted on appeal is uncorroborated and lacks basic and material details regarding the exact dates that Ms. [REDACTED] resided in the United States or where Ms. [REDACTED] resided in the U.S. In addition, the affidavit lacks material details about the source of the affiants' knowledge of Ms. [REDACTED] residence in the United States prior to December 1931. The affidavit is therefore found to have no probative value.

Accordingly, the AAO finds that the applicant has failed to establish that her mother resided in the United States for the requisite time period set forth in section 201(g) of the NA. The applicant has therefore failed to establish that she is entitled to derive U.S. citizenship.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. *See also* § 341 of the Act, 8 U.S.C. § 1452. The applicant has not met her burden and the appeal will be dismissed.

ORDER: The appeal is dismissed.